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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

NOV 30 1995

In the matter of)
) IB Docket No. 95-168
Revision of Rules and Policies for the) PP Docket No. 93-253
Direct Broadcast Satellite Service)

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REPLY COMMENTS OF BELL ATLANTIC

Bell Atlantic¹ hereby replies to the comments filed in response to the Commission's notice of proposed rulemaking.² Bell Atlantic believes the Commission should continue to foster Direct Broadcast Satellite ("DBS") as a competitive technology for multichannel video programming distribution, but should not attempt to adopt further rules based on the record developed in this proceeding. Instead, the Commission should investigate the competitive concerns raised in these comments and fashion appropriate rules on a more fully-developed record.

I. THE COMMISSION SHOULD NOT CHANGE ITS RULES OR ADOPT NEW ONES WITHOUT A FULLY DEVELOPED RECORD.

Bell Atlantic supports the Commission's efforts to develop the DBS industry and promote competition among alternative suppliers as quickly as possible. These efforts will

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² In the Matter of Revision of Rules and Policies for the Direct Broadcast Satellite Service, IB Docket No. 95-168, PP Docket No. 93-253, Notice of Proposed Rulemaking (released Oct. 30, 1995).

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help bring an end to the monopolies held by wireline cable television companies throughout the United States.

Bell Atlantic is concerned, however, that the Commission's efforts might be frustrated if it adopts new rules without an adequate record. The Commission already has DBS rules in place that provide competitive safeguards focused on incumbent monopoly cable television companies. Any new rules or rule changes adopted in this proceeding will likely be challenged while the Commission attempts to auction the DBS channels it reclaimed from Advanced Communications Corporation. As the Commission is well aware, the court will likely require full record support for even the most well-intentioned rules changes or expansions.

The comments filed in this proceeding are long on opinion, but provide precious few facts that would support the adoption of new rules or changes to the existing rules. For example, EchoStar and DirectSat argue that the Commission should "require disclosure of contracts between cable operators and affiliated satellite providers."³ These comments provide no factual or evidentiary support for this proposed rule. The Commission should decline to adopt new rules or change its existing rules without record support.

³ Comments of EchoStar Satellite Corp. and DirectSat Corp. at 56.

II. THE COMMISSION SHOULD THOROUGHLY INVESTIGATE COMPETITIVE CONCERNS AND EXPEDITIOUSLY IMPLEMENT APPROPRIATE SAFEGUARDS.

Bell Atlantic is not suggesting that there is no need for the Commission to adopt competitive safeguards for DBS service. While the current record lacks support for adopting safeguards at this time, several comments make assertions of competitive abuses that clearly warrant further investigation. If evidentiary support can be developed for these assertions, the Commission will be able to develop appropriate safeguards and implement them expeditiously.

For example, the National Rural Telecommunications Cooperative argues that “as the direct result of exclusivity arrangements by vertically-integrated programmers for areas unserved by cable, NRTC is unable to obtain access to critical programming for distribution via DBS.”⁴ This assertion certainly warrants further investigation by the Commission. If there is evidence that MVPDs are being denied access to programming on non-discriminatory terms, the Commission should develop appropriate safeguards and rules to remedy the problem.

CONCLUSION

Bell Atlantic supports the Commission’s efforts to facilitate new technologies to compete with monopoly wireline cable television companies. Bell Atlantic recommends

⁴ Comments of the National Rural Telecommunications Cooperative at 3-4.

that the Commission not change its DBS rules or adopt new ones until it has a fully developed record upon which to base its actions.

Respectfully submitted,

The Bell Atlantic Telephone Companies

By their Attorney

A handwritten signature in cursive script, appearing to read "James G. Pachulski / JG".

James G. Pachulski

1320 North Court House Road

Eighth Floor

Arlington, Virginia 22201

(703) 974-2804

Edward D. Young III
Of Counsel

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